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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 151210999-6348-02]

RIN 0648-XE620

Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; 2016 Closure of the Northern Gulf of Maine Scallop Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS announces that the Northern Gulf of Maine Scallop Management Area will close for the remainder of the 2016 fishing year. No vessel issued a federal scallop permit, with the exception of Northern Gulf of Maine permit holders also holding a Maine state scallop permit and fishing under the state waters exemption program in Maine state waters, may fish for, possess, or land scallops from the Northern Gulf of Maine Scallop Management Area.

Regulations require this action once NMFS projects that 100 percent of the 2016 total allowable catch for the Northern Gulf of Maine Scallop Management Area will be harvested.

DATES: Effective 0001 hr local time, May 13, 2016, through February 28, 2017.

FOR FURTHER INFORMATION CONTACT: Shannah Jaburek, Fishery Management Specialist, (978) 282-8456.

SUPPLEMENTARY INFORMATION: The reader can find regulations governing fishing activity in the Northern Gulf of Maine (NGOM) Scallop Management Area in 50 CFR 648.54 and § 648.62. These regulations authorize vessels issued a valid federal scallop permit to fish in the NGOM Scallop Management Area under specific conditions, including a total allowable catch (TAC) of 67,454 lb (30.6 mt) for the 2016 fishing year, and a State Waters Exemption Program for the state of Maine. NMFS reduced the 2016 NGOM Scallop Management Area TAC from 70,000 lb (31.8 mt) to 67,454 lb (30.6 mt) to account for a 2,546-lb (1,155-kg) over harvest of the 2015 TAC during the 2015 fishing year. Section 648.62(b)(2) requires the NGOM Scallop Management Area to be closed to federally permitted scallop vessels for the remainder of the fishing year once the NMFS Greater Atlantic Regional Administrator determines that the TAC for fishing year 2016 is projected to be harvested. Any vessel that holds a federal NGOM permit (category LAGC B) may continue to fish in the Maine state waters portion of the NGOM Scallop Management Area under the State Waters Exemption Program found in § 648.54 provided they have a valid Maine state scallop permit and fish in state waters only.

Based on trip declarations by federally permitted scallop vessels fishing in the NGOM Scallop Management Area, and analysis of fishing effort, we project that the 2016 TAC will be harvested as of May 13, 2016. Therefore, in accordance with § 648.62(b)(2), the NGOM Scallop Management Area is closed to all federally permitted scallop vessels as of May 13, 2016. No vessel issued a federal scallop permit may fish for, possess, or land scallops in or from the NGOM Scallop Management Area after 0001 local time, May 13, 2016, unless the vessel is fishing exclusively in state waters and is participating in an approved state waters exemption program as specified in § 648.54. Any federally permitted scallop vessel that has declared into the NGOM Scallop Management Area, complied with all trip notification and observer

requirements, and crossed the VMS demarcation line on the way to the area before 0001, May 13, 2016, may complete its trip. All limited access scallop vessels fishing on a day-at-sea must exit the NGOM Scallop Management Area before 0001 hr local time, May 13, 2016. This closure is in effect through February 28, 2017.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

NMFS finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it would be contrary to the public interest and impracticable. The NGOM Scallop Management Area opened for the 2016 fishing year on March 1, 2016. The regulations at § 648.60(b)(2) require this closure to ensure that federally permitted scallop vessels do not harvest more than the allocated TAC for the NGOM Scallop Management Area. The projections of the date on which the NGOM Scallop Management Area TAC will be harvested become apparent only as trips into the area occur on a real-time basis and as activity trends begin to appear. As a result, an accurate projection only can be made very close in time to when the TAC is harvested. In addition, proposing a closure would likely increase activity, triggering an earlier closure than predicted. To allow federally permitted scallop vessels to continue to take trips in the NGOM Scallop Management Area during the period necessary to publish and receive comments on a proposed rule would likely result in vessels over harvesting the 2016 TAC for the NGOM Scallop Management Area. Over harvest from the NGOM Scallop Management Area would result in excessive fishing effort in the area, where effort controls are critical, thereby undermining conservation objectives of the Atlantic Sea Scallop Fishery Management Plan and requiring more restrictive future management

measures. Also, the public had prior notice and full opportunity to comment on this closure process when we put these provisions in place. NMFS further finds, pursuant to 5 U.S.C 553(d)(3), good cause to waive the 30-day delayed effectiveness period for the reasons stated above.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 11, 2016

Emily H. Menashes,

Acting Director,

Office of Sustainable Fisheries,

National Marine Fisheries Service.

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